

Order №51
On Approval of the Maritime Disciplinary Statute
of the Director of the Maritime Transport Agency
of the Ministry of Economy and Sustainable Development of Georgia
27 December 2023
Batumi

In accordance with the Article 20 and Article 25(1)(b) of the Organic Law of Georgia on Normative Acts, Article 16(5) and Article 31(4)(b) of the Maritime Labour Law of Georgia and Article 4(2)(d) of the Statute “On Approval of the Statute of a Legal Entity of Public Law - the Maritime Transport Agency”, approved by Order №1-1/585 of the Minister of Economy and Sustainable Development of Georgia dated 14 April 2011, **I do hereby order:**

Article 1

The Maritime Disciplinary Statute shall be approved as appended.

Article 2

Upon entry into force of this Order, the Order №51 on Approval of the Maritime Disciplinary Statute of the Maritime Transport Administration of Georgia dated 12 December 2003 shall be declared to be void.

Article 3

The Order shall enter into force on 1 July 2024.

Director of the LEPL - Maritime Transport Agency

Aleksi Akhvlediani

Maritime Disciplinary Statute

Article 1. Scope

1. Maritime Disciplinary Statute (hereinafter referred to as – “the Statute”) establishes the types of misconduct and liabilities, the terms for imposing and removal of disciplinary actions, and the rules of incentives for seafarers working on board.
2. This Statute applies to seafarers working on board ship engaged in commercial activities and flying the flag of Georgia.
3. The terms used in this Statute shall have the meaning defined by the Maritime Labour Law of Georgia and the international Maritime Labour Convention (MLC).

Article 2. Essence and purpose of maritime discipline

1. Maritime discipline implies unwavering compliance of the seafarers with the requirements defined by this Statute and the Seafarer Employment Agreement.
2. Discipline on board shall be based on due fulfilment of obligations by seafarers, strong sense of responsibility and constant readiness to protect professional interests.

Article 3. Official duty

1. Each Seafarer shall perform assigned official duties diligently and honestly.
2. Seafarer shall be provided with precise and specific information regarding subordination and duties assigned.
3. Seafarer shall be obliged to adhere master’s command within the scope of the competence.
4. Discipline should be achieved through:
 - a) developing moral and mutual respect qualities by the seafarer;
 - b) conscious adherence of master’s commands and due fulfilment of instructions;
 - c) full compliance with the requirements defined by this Statute and employment agreement;
 - d) reasonable and fair imposition of measures of official and disciplinary liabilities.

Article 4. Obligations of the master of the ship

1. Master shall supervise seafarers’ performance and shall ensure consideration of the issues related to incentives and disciplinary liability.
2. Master shall be obliged to ensure discipline on board and adequate response to each case of violation, take appropriate measures to prevent misbehaviour of the seafarers and avoid potential negative consequences.

Article 5. Types of disciplinary misconduct

Types of disciplinary misconduct may be as follows:

- a) light disciplinary misconduct;
- b) serious disciplinary misconduct;

Article 6. Light disciplinary misconduct

Light disciplinary misconduct shall be considered to be:

- a) non-performance or poor performance of official duties, provided that it does not lead to serious consequences;
- b) showing up late at the workplace;
- c) leaving work early;
- d) absence from work without reasonable excuse;
- e) abandoning the ship without authorization;
- f) aggressive behaviour, provided that it does not lead to serious consequences.

Article 7. Serious disciplinary misconduct

Serious disciplinary misconduct shall be considered to be:

- a) assaulting a seafarer and/or passenger;
- b) wilful damage to the ship and/or property on board;
- c) theft;
- d) possession / use of firearms;
- e) non-performance or poor performance of official duties, deliberately and repeatedly;
- f) consumption, storage and distribution of narcotic or psychotropic substances;
- g) action that may lead to a maritime incident or endanger the safe navigation of the ship;
- h) performance of work while not sober;
- i) smoking, except in specially designated places;
- j) intimidation, coercion, or psychological abuse of other seafarers;
- k) inviting or granting permission to persons to be presented on board without prior agreement with the master of the ship;
- l) inconsistency of seafarer's competence / qualification with established international requirements;
- m) illegal shipment / transportation of any goods.

Article 8. Types of disciplinary actions

1. Taking into account the seriousness of the misconduct, the seafarer shall be subject to the following disciplinary actions:
 - a) remark;
 - b) reprimand;
 - c) severe reprimand;
 - d) Early termination of the contract in compliance with the requirements prescribed by this Statute.
2. Only one type of disciplinary action shall be imposed for each disciplinary misconduct.
3. Early termination of the contract shall be used with regard to serious disciplinary misconduct only.
4. Maximum period of validity of the disciplinary action provided for in subparagraphs "a", "b" and "c" of the first paragraph of this Article, shall be 3 months.
5. Upon expiration of the term or in case of early removal of disciplinary action it shall be considered that the seafarer has not been imposed a disciplinary action.
6. Within the period of validity of the disciplinary action, no form of incentive shall be applied to the seafarer.

Article 9. Commencement of disciplinary proceedings

Initiation of disciplinary proceedings may be based on discovery of the fact of alleged misconduct or any other circumstances that lead to suspicion that the seafarer has committed a misconduct.

Article 10. Principles of determining disciplinary actions

1. While imposing a disciplinary action, following shall be taken into account:
 - a) the essence of committed disciplinary misconduct, the degree of severity and the casual consequence related to the committed misconduct;
 - b) whether the disciplinary misconduct is committed intentionally or negligently;
 - c) severity of the consequences of committing a disciplinary misconduct;
 - d) whether any measure of disciplinary action been used within the last 3 months;
 - e) reason for non-performance of official duties;
 - f) ability to avoid the consequences of committing a disciplinary offense;
 - g) other circumstances affecting the determination of disciplinary action.
2. In case of committing another disciplinary misconduct within the validity of the disciplinary action, the seafarer may be subject to a more severe disciplinary action.

Article 11. Inspection of the circumstances of the case

1. Master of the ship shall be authorized to consider the alleged disciplinary misconduct and impose disciplinary action.
2. Within the disciplinary proceedings, ship's master shall inspect all the circumstances relevant to the case and make a decision on imposition of disciplinary action based on the evaluation and reconciliation of these circumstances.
3. Taking into consideration the circumstances of the case, master shall be authorized to:
 - a) collect information;
 - b) inspect the scene;
 - c) hear the case from the interested party;
 - d) apply other measures for the purpose of evidence collection, investigation and evaluation.
4. During the inspection of the alleged disciplinary misconduct, ship's master, based on the analysis of the obtained materials, shall submit a conclusion indicating existence or absence of disciplinary misconduct.
5. Conclusion shall cover:
 - a) name and surname of the person who allegedly committed the disciplinary misconduct, and the position held;
 - b) description of the alleged disciplinary misconduct, the time and place of its commission;
 - c) other information obtained in relation to the alleged disciplinary misconduct;
 - d) type of specific disciplinary action imposed on seafarer, if any.
6. Disciplinary action shall be considered to be imposed upon the signature of the written order by the master, which must be noted in the ship's register.
7. Conclusion of the master on the existence or absence of disciplinary misconduct shall be made within 10 days from the discovery of the alleged disciplinary misconduct.
8. Master shall be entitled, taking into account the actual situation, extend the period established by paragraph 7 of this Article, which shall not exceed 10 days.
9. The order provided for in the fourth paragraph of this Article shall be immediately communicated to the person subject to disciplinary action, which should be confirmed with the signature.
10. Prescriptive period for disciplinary misconduct and imposition of corresponding action shall be set at 3 months.
11. Disciplinary proceedings shall be commenced upon discovery of the fact of disciplinary misconduct.
12. Announcement of disciplinary action to the seafarer in the presence of other persons shall not be allowed.

Article 12. Seafarer's rights

1. Person who has allegedly committed a disciplinary misconduct has the right to:

- a) address the issue of disciplinary misconduct to another person who can advise the seafarer or act on behalf the seafarer;
 - b) request familiarization with the materials of the disciplinary proceedings;
 - c) submit a written and/or oral explanation;
 - d) submit evidence;
 - e) appeal to the shipowner the decision on the application of the disciplinary action.
2. Seafarer shall have the right to submit a complaint to the Maritime Transport Agency along with the decision on disciplinary misconduct.

Article 13. Incentives

1. Within the scope of the competence, master of the ship shall be authorized to use the following form of incentives towards the seafarer:
 - a) Commendations;
 - b) Early removal of imposed disciplinary action.